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THE PROBLEM OF DISOBEDIENCE AND THE INTELLIGENCE COMMUNITY

by

R. G. LYMAN
Commander, USN

Naval War College
Newport, RI

June 1990

SECURITY CLASSIFICATION OF THIS PAGE

REPORT DOCUMENTATION PAGE

1a. REPORT SECURITY CLASSIFICATION UNCLASSIFIED	1b. RESTRICTIVE MARKINGS NONE
2a. SECURITY CLASSIFICATION AUTHORITY	3. DISTRIBUTION / AVAILABILITY OF REPORT UNLIMITED
2b. DECLASSIFICATION / DOWNGRADING SCHEDULE	
4. PERFORMING ORGANIZATION REPORT NUMBER(S)	5. MONITORING ORGANIZATION REPORT NUMBER(S)
6a. NAME OF PERFORMING ORGANIZATION U.S.NAVAL WAR COLLEGE 6b. OFFICE SYMBOL (*If applicable*)	7a. NAME OF MONITORING ORGANIZATION
6c. ADDRESS (*City, State, and ZIP Code*) NEWPORT, R.I. 02841	7b. ADDRESS (*City, State, and ZIP Code*)
8a. NAME OF FUNDING / SPONSORING ORGANIZATION 8b. OFFICE SYMBOL (*If applicable*)	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER
8c. ADDRESS (*City, State, and ZIP Code*)	10. SOURCE OF FUNDING NUMBERS PROGRAM ELEMENT NO. / PROJECT NO. / TASK NO. / WORK UNIT ACCESSION NO.

11. TITLE (*Include Security Classification*)
THE PROBLEM OF DISOBEDIENCE IN THE INTELLIGENCE COMMUNITY

12. PERSONAL AUTHOR(S)
LYMAN, R.G., CDR, USN

13a. TYPE OF REPORT	13b. TIME COVERED FROM ____ TO ____	14. DATE OF REPORT (*Year, Month, Day*)	15. PAGE COUNT
		90 06 05	75

16. SUPPLEMENTARY NOTATION

17. COSATI CODES			18. SUBJECT TERMS (*Continue on reverse if necessary and identify by block number*)
FIELD	GROUP	SUB-GROUP	ETHICS, INTELLIGENCE, ESPIONAGE, THREAT POLITICAL PHILOSOPHY

19. ABSTRACT (*Continue on reverse if necessary and identify by block number*)

Over the last two decades the intelligence community has been the focus of national debate involving problems of ethics. Dissecting ethical dilemmas requires consideration of three factors: the varying ethical traditions that have shaped American moral culture, the impact of the Founders' architecture and the popular perception of the threat. While intelligence agencies have encouraged ethical behavior as part of their effort to master the security problem, the focus may be too narrow. To be sure, there are means of dissent outside of the extreme path the Rosenbergs travelled. Yet, defining ethical as obedient is a shortcut that fails to recognize not only the breadth of American ethical tradition but, in a society with a constitutional distrust of political authority, obedience alone has a hollow ring. [illegible] Intelligence/

20. DISTRIBUTION / AVAILABILITY OF ABSTRACT	21. ABSTRACT SECURITY CLASSIFICATION
☒ UNCLASSIFIED/UNLIMITED ☐ SAME AS RPT. ☐ DTIC USERS	UNCLASSIFIED

22a. NAME OF RESPONSIBLE INDIVIDUAL	22b. TELEPHONE (*Include Area Code*)	22c. OFFICE SYMBOL
Prof. John B. Hattendorf	(401) 841-3695	

DD FORM 1473, 84 MAR — 83 APR edition may be used until exhausted. All other editions are obsolete

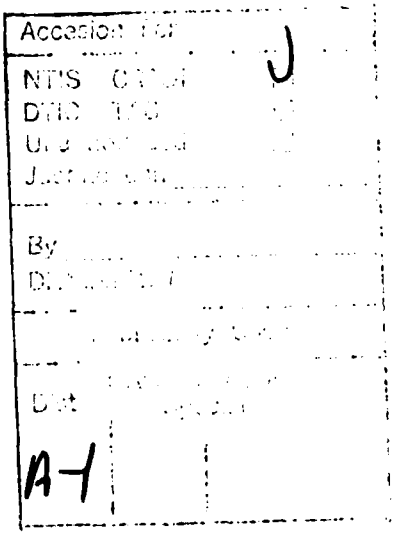
SECURITY CLASSIFICATION OF THIS PAGE

☆U.S. Government Printing Office: 1985—539-012

Abstract of

THE PROBLEM OF DISOBEDIENCE
AND THE
INTELLIGENCE COMMUNITY

Cultural attitudes and moral philosophy developed in America since the times of earliest settlement have a distinct impact on the intelligence community. Beginning with a discipline that Americans regard as on the fringes of morality, we have worked hard to make the intelligence activity conform to the ethics of our country as well as to keep those whc hold the secrets from acting too much according to a conscience that marches to a different drummer. Both problems can be distilled to the question of obedience to political authority. This paper examines the factors that impact political obedience, reviews cases of past disobedience, and concludes by reviewing existing ethical codes that serve to guide the intelligence community and its people.



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EXECUTIVE SUMMARY

Over the last two decades the United States intelligence community has been the focus of national debate, as forces across the full range of the American political spectrum try to come to grips with intelligence problems that have ethical questions as their basis. The difficulty of employing the "closed" capability of an intelligence service in an "open" democracy is half of the dilemma; harmonizing the personal ethical codes of individuals within the community with the need for security represents the other half.

Our society is one in which the strengths of multiple ethical traditions have laid the groundwork for a wide spectrum of political beliefs. Along with this great variety is the competition for power within government, deliberately introduced by the Founders to prevent the misuse of authority and the consequent restriction of the natural rights of the people.

Dissecting the ethical dilemmas, then, requires a look at the varying ethical traditions, from the Greeks to the modern age, that have shaped the American ethical culture and at the same time considering the impact of the structural forces of the Founders' architecture. Last, the threat to national security, and particularly the changes in the perception of threat over the

cold war years have mitigating or exacerbating effects on the issue.

The willingness of the American people to allow the free use of their national intelligence arm is related to their perception of the threat to the social order. Further, the national disposition to espionage against the United States, and the national expression of indignation, is related to the perceived level of harm to the country. The difference in sentences between Julius and Ethel Rosenberg (death) and John Walker (parole eligibility after less than ten years) are indicative of national feeling apart from actual damage done to the military balance per se.

While intelligence agencies and departments attempt to encourage ethical behavior as one facet in mastering the security problem, the focus may be too narrow. To be sure, there are avenues of legitimate dissent available to potential spies outside of the extreme path which the Rosenbergs travelled. Yet, defining "ethical" as equal to "obedient" is a shortcut that does not recognize the breadth of American ethical tradition. Moreover, under conditions of public dissatisfaction with political authority, "obedience" alone may have a hollow ring.

Preface

Here is the place to put all the excuses for wanting to write this paper. The excuse this time goes back to my own immaturity in college, when, taking Ethics and Metaphysics as a Chemistry major (Dustin Hoffman was told, in The Graduate, one word: "plastics") I rebelled, did the minimum work required, and blamed the administration for not having the clarity of vision to allow us, the science majors, to by-pass these irrelevant topics, allowing more time in the laboratory. This paper, then, is penance.

It also represents a greater understanding that the forces of human thought are of the greatest significance. Whether these forces be demonstrated in the successful synthesis of a new fuel, a poetic call to action against the harmful effects of that same fuel, or the formulation of a deeper social consciousness that we are all responsible for the results of our decisions about the fuel, the act of thinking - to include thinking about thinking - is central.

The thoughts that form other thoughts, philosophy, are particularly significant when they form the basis for actions that affect others. These "thoughts squared," multiplied by their effect on people, ethics, form the foundation of our relationship

to humanity. As Professor Brennan has said, "Ethics is not for sissies."

Ethical standards arise not simply from arid abstraction but from experiences of individuals and peoples. So it is with the American people. Moral speculation in this country is intimately connected to the Puritans, who brought with them a very distinct and far-reaching ethical code that received its particular quality from the exigencies of the new country. As much as any single group, they were intent on creating a covenanted commonwealth in Massachusetts. Following the Puritans came other settlers of a more secular orientation who saw society as a man-made order, not a divine order. They placed greater emphasis on reason rather than revelation as the foundation for ethical behavior and social order.

Moreover, a dynamic, expanding country attracted men of action - both in terms of physical and mental industry. The United States, soon after its founding, was growing its own philosophers: Emerson, Thoreau, William James, Charles Peirce. Their thoughts struck fertile ground in the U.S., bearing fruit in politics, education, and commerce.

The result was a sea of ethical currents, eddies, and tides that defined the ethical dimension of public order and policy in the centuries that followed.

CHAPTER I

INTRODUCTION

Over the last two decades or so we have been nationally agonizing over problems both with and within our intelligence organization. The abuses of the 1960s and 1970s and the problems with espionage in the 1980s have kept our intelligence community in a place where it would rather not be: the limelight.

A number of the problems with our national intelligence capability stem from a cultural heritage that views intelligence operations negatively, something that we would frankly rather not do. Operations are therefore always judged, at first glance, to have begun on the periphery of moral behavior. Since a successful intelligence operation ultimately involves the acquisition of information that the opposition does not want divulged, at best, therefore, it is stealing; at worst it is inducing treason.

Problems within the community revolve around the question of how to ensure that individuals carry out the will of legitimate public authority, particularly if such will goes against the grain of their personal beliefs. Basically, how can we prevent spies, and encourage obedience to the rules of security, yet at the same time ensure a harmony between personal moral codes and

civic virtue - a problem that Plato and Aristotle saw as the relation between the good man and the good society.

The roots of these problems are threefold, and very much part and parcel of the democracy instituted by our Founders. Blessed - or plagued - by multiple ethical traditions, operating in a structure that is based on the creation and maintenance of tension in government, and set in a world of international conflict with the potential for untold destruction, there is much to keep the problems - both with and within intelligence - alive and festering.

At its foundation, democracy is the requirement to hear all points of view. Authoritarian moral certitude is not a characteristic of democracy. Through the Bill of Rights, we have allowed a diversity of moral and political views that ensures a continuous marketplace of ideas. Only in authoritarian states, and particularly in theocratic states, are there no ethical dilemmas. In the United States, this translates to a wide spectrum of views, with ethical bases that include certainly the major representations from western philosophic thought and a healthy dose of eastern thought as well. As our traditions are primarily western, those will be the focus here.

Arising from their own view of man, the Founders virtually ensured a competition of ideas by dividing political power: they

deliberately introduced competition for political power in order to keep it decentralized, and thereby provide a guarantee of the individual rights of the citizens. While these fundamental structural tensions are as strong as ever, we have added to them over the past two centuries through the growth of agencies and institutions that the Founders did not predict, but for which they nonetheless made allowances. Finally, with the assistance of technology the points of view of all players in any public debate on any issue can be communicated widely and instantaneously.

The last pillar supporting any debate over the ethical dimensions of intelligence is the threat to national security. Certainly there is wide acceptance that a threat exists, the debate is always on the degree and the appropriate response. While the pain and destruction of war have never been welcome, over the past half-century the threat has had dimensions not envisioned by the Founders, representing a change in quality as well as in degree.

The ultimate question, relative to both problems with and within the intelligence community, is reducible to the question of obedience to political authority, and the grounds for that obedience. Moreover, as the government employs its intelligence organization (especially in a period of heightened threat), there may be a temptation to exceed the bounds of the Constitution.

Under these circumstances, an individual may be faced with the question of an unlawful order that complicates further the issue of obedience and conscience.

From the standpoint of individual ethics, obedience is a central issue. Disobedience implies that there may be a disagreement between what the political authority says is right and what the individual holds as right. The next chapter will seek to show the range of this issue by reference to historical traditions.

CHAPTER II

TRADITIONS

Forming the foundation of American national policy, both foreign and domestic, are multiple ethical traditions, built up over the three hundred or so years of our cultural experience. Not all of them are equally strong, with some of these traditions having been supplanted by newer thinking, or dulled by the onward intellectual movement of society. What follows is a summary of the broad ethical traditions that have shaped our national moral heritage.

Telling right from wrong can be accomplished by the individual through two broad intellectual appeals: revelation or reason. Of the former, we have two central traditions: Christianity, especially as practiced by the Puritans; and the transcendentalists, for whom individual inspiration and intuition is a "revealed" truth equal to any truth that may be embodied in the collective wisdom of the ages. Of the latter appeal, we are the beneficiaries of the thinking of the Greeks and the Pragmatists. Although the Enlightenment tradition holds that both reason and scripture may reveal the divine orders, in the case of a conflict, reason is the ultimate arbiter. Hence, the Enlightenment is more clearly in the Greek tradition.

ANCIENT ETHICAL TRADITIONS

While certainly well in advance of our culture, the shaping of American ethical thought has certain roots in ancient times, with the classical Greek philosophers for whom reason was the source of moral enlightenment. Much of what they thought directly formed the basis for Christian philosophy, or aligned with it, and remains very strongly in our tradition. Primary among these ideas are concepts of moderation, reason, harmony, balance, and the greater good. The Greeks were the originators, in the Western tradition, of the idea of determination of right and wrong through the use of reason. Plato, in particular, pursued his determination of the moral imperatives from within, using deductive reasoning, and focusing on the individual. He argues that reason must rule the soul and through the proper exercise of his reason, man can live a good life. Early Christianity did not oppose these notions, as close as many of them were to the teachings of Christ: moderation, balance, a greater good, all can be found in the New Testament. There was, however, left from the Jewish tradition and restated by Jesus Christ the notion of divine revelation as a true source of moral enlightenment.

In Aristotle we find the classic expression of the notion of moderation, the "Golden Mean:" happiness being intimately concerned with virtue, Aristotle teaches in the Nichomachean

Ethics that virtue is a "state of character concerned with choice, lying in a ...mean between two vices, that which depends on excess and that which depends on defect."[1] This is a theme which, although nascent in Plato, permeates Aristotle, and hearkens back to the Greek idea of the "art of living": "thus a master of any art avoids excess and defect, but seeks the intermediate and chooses this "[2] Later echoes can be found in the work of William Ellery Channing, the chief proponent of Unitarianism in the early nineteenth century, who wrote that "...manual labor is a great good, but in so saying, I must be understood to speak of labor in its just proportions. In excess it does great harm."[3] David Hume had written earlier that "No quality...is absolutely either blamable or praiseworthy. It is all according to its degree. a due medium...is the characteristic of virtue."[4]

Tied to the idea of moderation, and indeed preceding it in logic, is the notion that reason should be the preeminent force in man. Plato describes the soul as composed of three parts: passions, appetites, and reason, with reason, the wisdom-loving part, as dominant in a just person: "...each part...follows the guidance of the wisdom-loving part...whereas if either of the other two parts gains the upper hand, ...it will force the others to pursue false pleasure uncongenial to their nature."[5]

Aristotle affirmed Plato's thoughts on man's use of reason,

and expanded the idea to provide his basis for political life, saying that since the highest goal is the reach of wisdom, "...the end of political science [is] the best end...[since it]...spends most of its pains on making the citizens to be of a certain character, viz. good and capable of noble acts,"[6] and "...though it is worthwhile to attain the end for merely one man, it is finer and more godlike to attain it for a nation or for city-states."[7]

Plato holds that there is a final Good, a summum bonum which is the source of all knowledge and truth, and holds a higher place of honor. Man should seek the knowledge of the Good as a clear insight into the true end of life: "when its gaze is fixed upon an object irradiated by truth and reality, the soul gains understanding and knowledge and is manifestly in possession of intelligence."[8] This will realize man's full rational potential. While Plato stops short of equating the summum bonum with God, it was easy for Christian philosophers to do just that, without skipping a beat.

Christianity easily absorbed much of the thought of the Greeks, aligned as it was with much of the teachings of Christ himself. Perhaps the clearest and most concise enunciation of Christian teaching comes from the Sermon on the Mount, where men are told to love God (seek the ultimate Good) and love their neighbor as they love themselves (treat all equally). Following

such a prescription will ultimately result in a life of inner and external harmony, a balance of reason, passion, and appetite. These two central ideas, that there is a greater good, and that all men are fraternally equal (by the fatherhood of God) have remained the core of western philosophy and were critical in the foundation of our nation.

THE PURITANS

Escaping from what they considered to be an intolerable situation, the Puritans came to America in the early seventeenth century to establish a society built on the theocratic foundations of Calvinism. Their ethics were based on revelation as set forth in the Bible and interpreted by the Elders of the Church. Personal, private interpretation of God's word was tantamount to treason against the state, and resulted in exile. Theirs was a higher calling to a morally superior congregation, and their society, in the words of John Winthrop, was to be as a "City on a Hill."[9] This central idea of Puritanism, the sense of mission, lives with us in visionaries such as the Founders, Presidents Lincoln, Wilson, and Roosevelt, and perhaps even the demonstrators at the 1968 Democratic National Convention in Chicago, who chanted that "the whole world's watching."

While the rules for moral behavior were available to the Puritans strictly through revelation, from the practical point of

view there was much to support a centralized political apparatus. Once in a new land, the small band of Pilgrims were immediately faced with significant hardships and gone were all the social support mechanisms of the old world. As with any pioneering venture, the fundamental requirements were, for very practical purposes, there could be little dissent among the people, and that everyone work hard and "pull his own weight." At the time, these two basic needs were quite naturally wrapped in a theological cloak; today they remain with us though stripped of their religious garb in the secular ideals of team play and the moral worth of hard work.

As teamwork was important, the punishment for dissent, for not playing by the rules, was severe. The Quakers, for example, who believed that each person may hold his own interpretation of God's word, were severely persecuted, imprisoned, whipped, tortured, and executed. Otherwise right-thinking members of the community who persisted in thinking for themselves - or who could not otherwise fit in - were asked to leave. Roger Williams, an advocate of the separation of religious and civil authority (and thus a direct threat to the political power) and Anne Hutchinson are clear examples of the strong requirement to play by the rules: both were exiled from the community. There still persists in American culture elements of Puritan dogmatism.

THE ENLIGHTENMENT

The traditions of the Enlightenment were alive and in currency at the time of our national founding, so it is not surprising that they exert a strong influence. The intellectual fathers of the American foundations, John Locke, Montesquieu, and David Hume were read by Jefferson, Madison, and others, and made a profound impression. Montesquieu provided the idea of checks and balances, Locke the foundations of the equality of man, natural rights, and the function of government, and together with Hume, ideas on labor and property. Nor is it surprising that the Enlightenment traditions are supported by a strong Judeo-Christian foundation, as these Enlightenment thinkers, with some exceptions, were building on the accepted ideas of the fatherhood of God, the basic - though not literal - truth of the Bible, and the classic imperatives to "render unto Caesar..." and "do unto others..."

While certainly leaning toward reason as the primary source of moral knowledge, revelation was hardly discarded in the Enlightenment. In fact, much thinking was devoted to the rectification of reason and revelation, with the solution best enunciated by latitudinarianism, an idea which has its origins in a group of thinkers known as the Cambridge Platonists. These men (Benjamin Whichcote, Cudworth, Henry More) held that reason is the highest attribute in both God and man, and human reason's

primacy in man is analogous to divine reason's primacy in God.[10] Moral enlightenment is therefore both through reason and revelation and there can be, ultimately, no essential conflict between faith and reason. "To go against reason is to go against God; it is the selfsame to do that which the reason of the case doth require, and that which God Himself doth appoint. Reason is the Divine Governor of man's life; it is the very voice of God."[11]

Writing before the Cambridge group, Thomas Hobbes laid the foundation of Enlightenment political and ethical thinking. From a basis of rough equality of ability in all men in the state of nature, and search for similar ends (in the physical sense), there is generated a competition, which leads to enmity and war. War is essentially the baseline: any other time, i.e. at which there is a "...common power to keep them all in awe,"[12] is peace. This condition, without the common power, is "...worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short."[13] Government, then, finds its utility in acting as this common power and through reason, man will come to accept this power. Plato saw the common condition of man similarly, and warned against the peril of not allowing reason to control behavior. Plato observed that ignorance of truth and reality gives people unsound ideas about pleasure, resulting in men who "...spend their whole time in feasting and self-indulgence...Bent over their tables, they

feed like cattle with stooping heads and eyes fixed on the ground; so they grow fat and breed, and in their greedy struggle kick and butt one another to death..."[14]

Hobbes' conception of man was not too distant from that of the Puritans; despite the differences in origin, man's natural state was fairly miserable (the Puritans went so far as to say that not only is this life miserable, but the likelihood of the next being even worse is very high). Anthony Ashley Cooper, the third Earl of Shaftesbury (1671-1713) took a position poles apart from Hobbes and the Puritans, holding that instead of being depraved, predisposed to nastiness and brutishness, man's life is noble, beautiful, and enduring. It is the creation of an infinitely good Creator. Writing in the restoration, when the neoclassical influence of balance, order, proportion, and symmetry were accepted artistic ideals, Shaftesbury drew an analogy between the artistic sense and the moral sense. His conclusion was that this is the best of all possible worlds where "whatever is, is right" an idea common to Henry St. John Viscount Bolingbroke and Alexander Pope, but satirized by Voltaire in Candide.

Owing to the fatherhood of God, the Enlightenment thinking that reached this side of the Atlantic rejected the extreme notion of the Puritans that man is depraved: while he may tend toward evil, as a son of God man contains a basic innate goodness

and ultimate perfectibility. Following this logic, man can be counted on to make his own moral way in the world, without decisions having to be made by the church. Jefferson, in particular, endorsed a common sense position that man has an inborn moral sense as natural as an arm or leg.[15]

A second notion that comes from Hobbes' description of the state of nature is that in it, every man has a right to do as he chooses. There are natural rights and these rights are antecedent to natural laws. This is perhaps the single most important contribution of the Enlightenment: men are born free and equal and possess an innate moral right to live their lives, exercise their freedom, and pursue their happiness so long as these do not infringe on the equal rights of others to do the same. The classic statement of this view is found in the Declaration of Independence. Government, therefore, is only needed to secure the rights of man, and it is from this requirement that government derives its authority. John Locke expressed it thus: "political power I take to be a right of making laws...for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the common wealth from foreign injury, and all this only for the public good."[16] The thinking of the Enlightenment was that through reason (which was, in addition to revelation, a source of moral knowledge) man can glean these natural rights and natural laws.

The conclusion is that since government is in existence to protect the rights of people, and is thus answerable to the people, it loses its legitimacy when it can no longer function in protection of rights.

In the America of the eighteenth century there were two other critical factors: the American Revolution, overthrowing external control, and the fact that the land was new, unspoiled, and extremely large. The opportunities for man to seek his dreams were never better, provided government did not unduly restrain him, the great fear that permeated the thinking of the Founders. How was it possible to reconcile the need for government with the corrosive effect of power on the governors? While man may be innately good and ultimately perfectible, power is dangerous and a strong central government can very easily trample the rights of citizens. John Adams expressed the seduction of power very eloquently: "Power always thinks it has a great soul and vast views beyond the comprehension of the weak and that it is doing God's service when it is violating all His laws. Our passions, ambitions, love and resentment, etc., possess so much metaphysical subtlety and so much overpowering eloquence that they insinuate themselves into the understanding and the conscience and covert ability to convince themselves that their way is the best way."[17] The anti-federalists, in particular, had a deep fear of strong central government despite its obvious utility in the protection of the fledgling nation.

The answer was found in a combination of the idea of checks and balances and enlightened self-interest. Recognizing that men would naturally do what was best for themselves, the only way to keep the whole system from swinging wildly out of control was to have men in government in competition with others, who were also seeking to fulfill their self-interest. Montesquieu saw some good news in such a system: "Honor motivates all parts of the body politic: it likewise binds them by its action, and it reveals that everyone acts for the common welfare when he thinks that he is acting in his own interests."[18] On the dark side, Bernard Mandeville (1670-1733) in a book entitled The Grumbling Hive, wrote that individual greed and self-seeking are indispensable if a nation is to become strong and wealthy, that "private vices are public benefits." Charity, for Mandeville, is only a euphemism for pride. Gordon Gekko, the central malefactor in the motion picture Wall Street restated Mandeville eloquently, while also demonstrating eloquently the limits of the philosophy. Thus the Founders deliberately introduced political tension in to government - an idea that detractors deride as the source of governmental inefficiency, and that supporters hail for exactly the same reason.

THE TRANSCENDENTALISTS

Returning to revelation as the source of moral enlightenment, the transcendentalists took moral clues and

inspiration from nature itself - nature being divine, original, and superbly beautiful. These clues come to man through his own intuition and inspiration: he should not rely on the thoughts of others, but instead should look to himself - and to his own relationship to nature - for guidance and authority. No man can consult an authority higher than his own ideals, nor can public opinion or majority rule validly determine what is really just, right or wrong. The moral high road is demanding: one must take a stand, and take action from principle. Jefferson is found to be well aligned here, having written in the Declaration of Independence that "...when a long train of abuses and usurpations...evinces a design to reduce [the people] under absolute despotism, it is their right, it is their duty, to throw off such a government..."[19]

The transcendentalists took American ethical standards to new heights, standards that are set by the individual himself. Whereas the Enlightenment ideals, as expressed in our form of government, depended on man to naturally tend to his worst, the transcendentalist imperative was that the moral standard of man should be as high as his own authority demands, and that he has an obligation to take action as a result. "To thine own self be true" was the mandate of the philosophy.

The effect of the transcendentalists cannot be underestimated. Building on the Enlightenment conclusion that

the government is answerable to the people, and that government is fallible, the transcendentalists added a new and powerful enunciation of personal moral authority. It is a tenet now deep in our culture that different drummers are authorized, and that much of our national progress has been as a result of these intellectually "rugged individualists" striking out on a path of their own.

PRAGMATISM

The last tradition that has provided a set of ethical vectors that remain with us is that of Pragmatism, a trend of thought fathered by Charles Peirce and most strongly developed by the New England philosopher William James. Pragmatism is a method of evaluating the meaning of thought: if the thought has an impact on one's reality, it has meaning. James's thoughts quite naturally appeal to practical, hard working Americans, many of whom have a predisposition to view philosophizing - or politics - as idle: "...if no practical difference whatever can be traced, then the alternatives mean practically the same thing, and the dispute is idle."[20] The notorious fact of pragmatism connected to American commercial success somewhat underplays the range of the philosophy, but it is true that there is a "bottom line" character to the thought.

Connected to Pragmatism, in time as well as in cultural

impact was Darwin's historical effort at documenting the evolutionary nature of life. The notion that the fittest survive fits perfectly with the notion that a course of action or an ethical concept is meaningful if it allows productive results. A result, however, is going to have different meaning for different individuals, so extreme tolerance is a requirement. Fortunately, tolerance is a by-product of the ideals of the transcendentalists as well as the expression of Enlightenment principles in our Constitution.

CHAPTER III

ALIGNMENTS

While the ethical traditions certainly stand alone, they often add, aligning to produce tendencies in American culture that are very strong. Several of these are relevant to the conduct of intelligence activity: the notion that we are a morally superior polity with a mission; the idea of ethical, religious, and political tolerance; and the concept of action.

The messianic view of our national policy is originally a Puritan tradition: we are a morally superior group that must be held to higher standards. John Winthrop, on the deck of the flagship Arabella in 1630 told his congregation that they must be "as the city on a hill" which can hide from the scrutiny of no one, and for whom the standards of moral behavior must be high. Blending with this idealism was the seriousness, tenacity, and toughminded practicality arising from a combination of Calvinism and pioneer needs. Hardships had to be met with determination; there was little room for anything other than the most steadfast approach. Historically, Americans have seen themselves quite successful at setting this higher standard: Channing wrote that "our prosperous classes are much like the same classes abroad, though, as we hope, of purer morals; but the great working multitude leave far behind the laborers of other countries."[21]

Adding to this idea is the transcendentalist imperative to set a higher standard of conscience than previously existed. For the transcendentalists playing by the rules certainly allows a modicum of social progress, but it also reflects the aim toward the lowest common denominator. Thoreau and Emerson believed that one's own conscience is equal to - or better than - the body of knowledge on matters of right and wrong and it is the duty of the individual to follow his conscience, taking action to ensure the highest standard possible.

The idea of tolerance has roots in many traditions, among them the Enlightenment, transcendentalism and pragmatism. Philosophies that place emphasis on the ability of the individual to determine moral behavior through conscience will, by necessity, admit multiple views of ethical activity. The Enlightenment tradition in this regard was expressed by the aforementioned Cambridge Platonists, who asserted that since conscience was the voice of God, one must be free to follow it. In the case of the transcendentalists, since man's ultimate authority is the self, and individual inspiration and intuition are the bases for moral enlightenment, there is a great need for tolerance of those many equally valid intuitive judgements. The pragmatists arrive at the requirement for tolerance through a different road, asserting that an idea has meaning only if it has a practical effect on the individual. James held that pragmatism "widens the search for God," willing to take on any information,

to follow either logic or the senses and to count the humblest and most personal experiences.

The result of these very strong alignments - and the popular support of strong feelings against bigotry and racism - is a modern American view of tolerance that tends toward "openness at all costs."[22] As Bloom points out, the popular notion of tolerance often overlooks the idea that there are standards of good and evil, and that the holders of the "openness at all costs" philosophy must tolerate those who hold different views. Jerry Whitworth's claim to have been a follower of the libertarian philosophy of Ayn Rand takes this view to its extreme.[23]

A third ethical tendency that has multiple roots is that of action. Aristotle held that we become just by doing just acts: "Virtue comes about through habit" and "...we become just by doing just acts, temperate by doing temperate acts, brave by doing brave acts."[24] In the Enlightenment David Hume wrote that "...the end of all moral speculation is to teach us our duty, and, by proper representation of the deformity of vice and the beauty of virtue, beget correspondent habits, and engage us to avoid the one and embrace the other."[25] Hume also had distinct feelings on those who do not take action based on principle, "A gloomy hair-brained enthusiast, after his death, may have a place in the calendar, but will scarcely ever be admitted when alive

into intimacy and society, except by those who are as delirious and dismal as himself."[26] Thoreau was particularly adamant on the idea of taking action: "nothing must be postponed. Take time by the forelock. Now or never!"[27]

CHAPTER IV

STRUCTURAL TENSIONS

In addition to the tension that exists when two diametrically opposed ethical standards are applied to the same problem, there are other tensions that are built in to American political culture that provide additional opportunity for the development of turmoil in the national security establishment. Primary among these is the Founder's constitutional separation of powers, a structural equivalent of a mechanical governor that would keep the system from swinging out of control and thereby impacting the natural rights of the people. The Founders' mistrust of power was manifest in the separation of powers in the executive and the legislative, in the two houses of Congress, and in the concern for the maintenance of states' rights.

The Founders believed that the only way to guarantee the natural rights of man is to build a system of checks and balances with the final authority in the people themselves. This idea admits governments are fallible and in need of revision from time to time: a concept that while having a negative tone to one who would support an authoritarian government, is distinctly positive when applied to democracy. Channing took this optimistic view of American society and political structure: "I trust that the existing social state contains in its bosom something better than

it has yet unfolded."[28]

In the decision processes leading up to the establishment of a government of checks and balances, the primary motivating factor was that of self-interest, as discussed earlier. In Publius' eyes, people were ambitious and self-interested, and they should be expected to make improvement of their own conditions the basis for their political choices. Those who would govern a free people should use this fact to channel the motive of self-interest toward a functional government. Madison and Hamilton, the Federalists, were emphatically unwilling to write a constitution based on the assumption that virtuous governors would always be available for office. Since governors would be drawn from the ranks of the people, Publius realistically argued that they could be expected to resemble their fellow citizens in that they too, would be self-interested, ambitious, and hungry for power. The structural objective, then, was to create a system that would keep ambition in check while they held the scepter of power. In Federalist No. 57, Publius said "The aim of every constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and, in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold power."[29]

In addition to the tension deliberately created, the growth

of institutions that are at odds with each other has been the result of a natural evolution of government over the two hundred year history of the country. In intelligence we see the separate traditions, outlook, and charter of the service intelligence organizations sometimes in opposition to the CIA, for example. Even within a single organization there is tension as a result of scarce funds, overlapping charter, and the natural, almost thermodynamic tendency of institutions to expand their scope and power. The results of this tension and competition are potentially deleterious to the successful prosecution of security cases, as well as deleterious to the view that the individual has of his government. Allen and Polmar describe the case of a DoD component using classified data at an unclassified briefing in order to sell a program: "The crime of espionage has been diluted in other ways as well. While [Samuel Loring] Morison was put on trial for passing photographs to a British Magazine, LtGen. Lawrence A. Skantze, testifying before the House Armed Service Committee in 1983, showed photographs of the new Soviet MIG-29 Fulcrum and the SU-7 Flanker fighters. The published hearings, which had been reviewed prior to the publication, contained reproductions of the photos, which US magazines were quick to publish. Years later, the photos are still classified by DoD. Skantze showed the photographs to Congress in an effort to garner more funds for Air Force programs. He was subsequently promoted..."[30]

Another serious dilution to security is the leak, a veritable institution in Washington with the bottom-line message that "rules are made to be broken." Senator Cranston, in 1975, went so far as to shed an aura of righteousness on the whole issue of leaking (and thereby complicating prosecution in some cases later) when he declared that "The leaking of official secrets is desirable if the official secret is information which the public has a right to know. This is a very important part of democracy."[31] In addition to providing the public with information for which they have a right, leaking is a classic tool of political sabotage: an individual can effectively veto any operation that he or she deems inappropriate. Of the oversight apparati in Congress, there are enough members of a wide enough political range, and their staff personnel, that the opportunity for veto through leaking is high.

While this notion of taking action to stop a program against which one is firmly and sincerely aligned has ethical roots in any number of traditions, certainly the most direct relationship is to the transcendentalists, who advocated personal, direct action to achieve goals of conscience. One aspect of the defense of Morison is directly to the point, with Morison conceding, as his personal contribution to the enlightenment of the public on national security issues, that he did "leak" the satellite photos of the Soviet shipyard to the press "to demonstrate the increasing threat of the Soviet Navy."[32]

CHAPTER V

THREAT

"Americans have always had an ambivalent attitude toward intelligence. When they feel threatened, they want a lot of it, and when they don't, the tend to regard the whole things as somewhat immoral."[33] In this sense, intelligence is very much like a defensive military capability: when threatened, we arm, when the threat recedes, we rush headlong into disarmament.

The centrality of the threat is such that citizens will surrender personal sovereignty in view of a threat to the established order. Echoing Hobbes, Hamilton wrote that "Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates."[34] By keeping the perceived threat at a high level, potentially restrictve - or disobedient - actions of the state will be more easily perceived as justified. In the United States there is continual effort by the executive - generally - to keep the perception of the threat at a level high enough to justify their efforts: the central objective of government is, after all, the insurance of the polity from harm, and thus the guarantee of rights. In our country the tensions built in by the Founders have put an added twist on the issue, some would say dooming the issue of national security to

everlasting turmoil and disagreement.

The structural and ethical forces that lean against the use of intelligence are strengthened in times of peace, and relaxed in times of a perceived threat. Of these opposing elements, three are key to our attitudes: the nature of the society itself, our self-perception as the "city on a hill," and the view of spies - and by extension, intelligence in general - in the Puritanical terms of sin.

The use of secret methods and means in our open society is alien: "Secrecy, it is alleged, erodes the democratic system of checks and balances on which constitutional government rests. American attitudes toward intelligence arise from a high standard of morality. The fact of the matter is that intelligence runs against the grain of American political culture..." to the point where one may rightly ask: "Are intelligence services in democratic societies bound to fail simply because they operate in an unfriendly environment?"[35] At the outset of the cold war, the FBI, in particular, was at a distinct disadvantage due to the overwhelming capabilities of the opposition, and given our attitudes there was no possibility that the United States could counter the KGB by building a KGB of its own. In the open society of a democracy, nothing even approaching such a monstrosity would be tolerated.[36]

The second force leaning against intelligence in times other than war is our self-perception that we are the city on the hill; our foreign policy should set a higher standard, and "take the moral high ground." Certainly reflecting the Puritan notions of superior morality, this cultural tendency also reflects our national disdain of the methods of European politics in the 18th and 19th centuries, when Napoleon and Bismarck took Machiavelli to heart and wove tangled webs of deceit and power politics in order to further their national goals. Intelligence, unfortunately, lives this legacy. In America, intelligence ends do not justify intelligence methods for the most part, and particularly in times of peace. In the sense that the best way to ensure peace is to prepare for war, intelligence collection is best performed when the American conscience will tolerate it the least.

Last is the Puritan notion that weakness and sin are related, and weakness deserves the same punishment as sin. Spies are weak, sinful individuals who would be better off not acting as traitors to their countries. An agent, who is either working for the United States or one who is working against the United States, is still betraying his country. While technological espionage is something on which we would prefer not to spend tax dollars, human intelligence (HUMINT) in particular, deals with those, who, under conditions of reduced threat to the social order, are regarded as less than role models: traitors, thieves,

sneaks, and liars. While perhaps reaching, this is a concept that may well influence our reactions to the capture of spies who have been on "our side". In the aftermath of the defection of Edward Lee Howard, Adolph G. Tolkachev, a Soviet designer, disappeared, possibly having been killed.[37] Although the contribution to United States security by this man could be guessed to have been greater than that of an average citizen, he received not so much as a nod. The contrast to the Soviet view during the cold war, in particular, is striking: Moscow's treatment of those who came in from the cold, Philby, Burgess, Maclean, Lonsdale, Abel, and others, included honors, awards, promotions, or quiet retirement. The message was that, at least for ideological spies who deserved a fraternal treatment, Moscow would get them back if they were caught. There are some mitigating factors worth considering before viewing our commitment negatively: assuming we have accepted former agents into American society after a successful career in espionage supporting the American cause, there is a need to keep them, much for their own safety, under wraps and in a quiet retirement. Lastly, a successful operation generally does not get a great deal of publicity for fear that the methods, focus, and needs of American intelligence may be compromised.

Institutionally, there is also a bias against HUMINT: the Office of Naval Intelligence (ONI), in an ostensible budgetary move, suspended these operations in the mid-1970s to allow better

focus on the technological and analytical aspects of the profession. Despite some highly successful but less-than-savory operations in the past,[38] there remains a bias against the use of traitors, thieves, liars, and other less pristine types today.

CHANGING VIEWS OF THE THREAT

Emerging from World War II there was a nearly immediate perception that our wartime ally, the USSR, had national goals in mind that if accomplished would very greatly alter the European landscape as well as the entire international environment. In addition to these dark intentions, there was a new and terrible weapon in the world's arsenal, and a no less terrible ideology - Stalinism - that appeared to be prepared to use any means to further its goals.

The rise of the Soviet threat was a very harsh shock to Americans who had just been through the most hard-fought war in their history. Their teammate, the USSR, had suffered greatly, and should, by rights, be undergoing a national revitalization. Instead, Stalin was using ideology as a motive to recruit Americans, Canadians, and British subjects to work as zealots, putting their faith in Communism and world peace above loyalty to their own countries.[39] There were mixed results. The success was that for the Soviets they got the atomic bomb faster. The

greater failure was that the USSR was revealed as a treacherous nation who would betray its erstwhile allies, and in the face of no threat to itself (our own view) and in stark contrast to our own rapid demobilization, embark on an arms buildup that could only be viewed as surprising and provocative. This perception of the threat has endured, fed by the actual events of the cold war, the spread of Marxism as an ideology that appealed to nations newly-free of the bonds of colonialism, and the continuing realization that "the bomb" could destroy our way of life in one fell swoop.

While these factors played out, and led us from one conflict with communism to another, the actual invasion of America behind its oceanic barriers never occurred. Nor did the infiltration and subversion that Senator McCarthy tried to stamp out in the early 1950s. Vietnam, the upheaval of the 1960s when an entire generation went through puberty at one time, and even the assassination of a President did not precipitate American decline and defeat. We moved away from the threat of world domination and the enslavement at the bloody hand of communism and toward a threat of the restriction of individual rights by our own hand.

Throughout the two decades of the 1960s and 1970s, there was a continual erosion of trust in government, and therefore the view of the legitimacy of government. This evolution was built on a solid baseline of distrust of government: the Founders, as

mentioned, had their reasons for building in a mechanism to keep government from gaining power. As part of this baseline of distrust, politics, too, has always been viewed in a mixed fashion. While Aristotle held that the end of political science to be the best end, Channing noted that "Politics, indeed, regarded as the study and pursuit of the true and enduring food of the community, as an application of great and unchangeable principles to public affairs, is a noble sphere of thought and action; but politics, in its common sense, is considered as the invention of temporary shifts, as the playing of a subtle game, as the tactic of party for gaining power, and the spoils of office, and for elevating one set of men above another, is a paltry and debasing concern." And in an echo of the Founders' concern for men of superior virtue, Channing added, "The lowest men, because [they are] most faithless in principle, most servile to opinion, are to be found in office."[40]

As part of the erosion of trust in the government, there was the widening of the gap between what was seen as the government and what was viewed as the nation. A government that truly represents its people does not conduct espionage against them. It does not routinely lie to them. It does not authorize illegal activities in order to achieve political goals. The net effect on the problem of espionage is a simple one: espionage was not viewed as a crime against America, it was a crime against a regime. The embodiment of such an idea was Christopher Boyce, who

for several years passed information to the USSR through his access to the material at the TRW corporation. His was not espionage to further an ideology he believed in; nor was it simply to gain a financial windfall. It was out of a total lack of respect for the government - as opposed to the nation.[41] The gap between the nation and the government was important to Stalin, who realized that the popular view of his regime was not a terribly supportive one. In his call to arms to defend Russia against the German invasion in 1941, the dictator called to his brothers and sisters to defend the Rodina - the motherland. Not a word was mentioned about the necessity to defend the "state."

In the mid-1970s the threat had receded, along with the Vietnam war, and the "abuses" by the CIA. Congress became busy reasserting its power after a war, and one of the elements of that agenda was the "reining in" of the intelligence arm of the executive branch. In terms of threat, the view was that, in contrast to the motion picture of the opposite name, "the Russians are NOT coming." President Nixon had generated foreign policy successes which gave fuel to the fire that the Russians were not coming. It is said that when an enemy become the butt of humor, he is no longer dangerous. In the case of the comedy dealing with the imminent arrival of the "Russians" the humor was not directed against the bumbling - but "terribly human" - crew of a submarine of the Soviet Navy, but rather more against our own perception that we were under attack.

This change of perception is also strongly evident in the popular conception of espionage as a game between two superpowers. Actual operations by the CIA and FBI in the intelligence arena do take on the air of a game, and are often portrayed that way in the media. While the object of the "game" is to enhance national security, there are rules (diplomats are not arrested, or detained, for example), trading (Daniloff for Zakharov), and few instances of real harm or damage (arguable depending on the perspective, but few Americans who do not follow the "game" too closely would be hard pressed to offer an example of an instance where espionage has made a dent in international policy). The trade of Nicholas Daniloff for Gennadi Zakharov is a classic example of the FBI/CIA vs KGB continuing game of spy and counterspy. Adding to the parlor atmosphere, throughout the 1970s there were no instances of spies actually being put on trial: the deals were made in the conference room, and the spies' fates were seen by the government as less important than the loss of additional secrets through the process of a court battle. In the eyes of many, the idea of national security was a "phrase that has lost a lot of meaning lately" , a line used by an FBI agent in reply to a CIA bureaucrat in the motion picture Hopscotch. "The ultimate beneficiary of such a view is the USSR, for, instead of being viewed as a totalitarian state, it is seen as a competitor on equal status. In this view, the two superpowers mirror each other as they play at espionage, a dirty little pastime of the cold war."[42]

Further eroding the seriousness of intelligence matters in the eyes of many citizens is the hollow ring of statements made by government officials in the case of espionage problems. Not only were spies not prosecuted in the 1970s, but it is difficult for one to compare the passing of atomic bomb secrets to the USSR in the late 1940s to the passing of information to the Israelis by Jonathan Jay Pollard in the 1980s. Yet Secretary of Defense Weinberger did exactly that in saying "It is difficult for me ...to conceive of a greater harm to national security."[43] Despite the strong feelings of the Secretary, Pollard was never prosecuted. The danger was certainly that anti-Israel feeling would have been exacerbated, and Pollard's expected "ideological defense" could have been shown as not without some moral basis. Jerry Whitworth wrapped himself in the same flag, though to no avail.

CHAPTER VI

THE REAL QUESTION: OBEDIENCE VS. DISOBEDIENCE

As stated earlier, problems of behavior both with and within the intelligence organization is ultimately reducible to the idea of obedience to the legally constituted political authority. In the case of the use of intelligence to accomplish the aims of the state, it is a question of exceeding the bounds of the Constitution. In the case of an individual becoming an agent of a foreign power, either for ideological reasons or for financial gain, the question is again obedience.

Ethically, the issue of obedience to the state is addressed by both reason and revelation traditions. In the case of the former, the Greeks, and later the Enlightenment held that obedience can be justified through the use of reason. Thomas Hobbes' notion was that the surrender of personal sovereignty was to accomplish a greater good, i.e. order in society, and the reduction of the possibility of a poor, nasty, brutish, and short life. The logic is that the state guarantees my rights: if I disobey, I may threaten the very structure that allows me to exercise my freedoms. Simply, given the Hobbesian view of the state as the guarantor of rights, there is a very pragmatic rationale for obedience: it provides the greatest good for the greatest number.

The other path to the determination of the necessity for obedience lies through revelation, either theologically based, revealed through personal insight, inspiration or intuition, or revealed to the individual as part of the collected wisdom of the generations. On any particular issue, the individual could fall on either side of the requirement for obedience. The Puritan tradition was that obedience to the law was fundamental, and they took great offense at disagreement, with the most harsh punishment meted out. In a very small, seedling society in a challenging environment, any disruption of the order is potentially disastrous. Some modern theocratic states in the Middle East exhibit these fears. The transcendentalists took an opposing view, holding that individual inspiration may come on the side of obedience, or may fall against it: in either case, the individual is bound to follow conscience. Lastly, in the case of revelation via the canonical formulae ("they" are collectively smarter than "I") the individual abides the by rules of society for the simple reason that he views the collected wisdom as having been successful in maintaining a society apart from anarchy, and hence deserving his participation.

Within either the revelation tradition or the rational tradition, obedience in a specific instance may or may not be mandated. The Greeks viewed the greatest good as providing the stimulus for correct behavior, and in a properly managed society obedience would be the reasonable thing to do. The Christians added the underpinnings of the long tradition of obedience to the

law (through the Judaic history) but separated the idea from the state: there is a greater good, it is expressed through religious beliefs, and this transcends the dicta of the state. Yet, we are to render to Caesar. It is not surprising that Christianity and political authority managed to live in harmony for centuries. The Puritans represent, in this sense, a return to a single authority: the state, in a theological cloak. Recall that Roger Williams was banished from the Massachusetts Bay Colony for the very idea of suggesting the separation of religious and political authority. Only in the Enlightenment was the separation of religion from political authority again sought.

The ebb and flow of religious support for political authority is related to the view of the origins of the state and its functions. Hobbes argued that the origin of the Leviathan was artificial, totally a construct of man in his attempt to rise above the worst: anarchy. Robert Filmer, replying to Hobbes in the 17th century, wrote that the social order is natural, an organic entity that exists as a result of God's own work. While rejecting Filmer's claim of a direct chain to Adam, Locke retained the idea of a natural social order that succeeds man in his natural state yet precedes government.

The second and related consideration is the individual's view of the function of the state, and therefore its claim to legitimacy. Recall Jefferson's guidance for that time when the

state no longer provides the citizenry with the protection of rights for which it was established, "...it is [the people's] right, it is their duty, to throw off such government..."[44]

The significance of the individual's conception of the origin and the function of the state is that there are consequences to disobedience; the view of the government by the individual is central to his calculation of the consequences.

The Hobbesian view of the state is similar to that of the Puritans in that the political order, as represented by civil authority, is the social order. There is no social order outside of the "Leviathan." Of course, the Puritans had differing views of the origins, but nonetheless there is the commonality of a single step from anarchy and chaos to polity. The result is that the political authority is fragile, and disobedience is potentially extremely dangerous. Often recognizing the illegitimacy (in Lockean terms) of their own existence, totalitarian states compensate by forcing obedience in every detail of life. The consequences of disobedience in China in the summer of 1989 were simply too dangerous to the political order.

By contrast, the Jeffersonian view is that there exists, as Locke said, a natural social order that creates government to protect its rights. If the government is unsuccessful in that duty, or worse, its removal is far from a disaster. The

consequences of disobedience in a resilient social order are thus much less severe, and civil disobedience is an accepted fact of political life. Martin Luther King's actions brought change to the civil structure, not its destruction. Likewise, despite concerns in the USSR, "prophesying with accents terrible of dire confusion and confused events,"[45] the resignation of President Nixon in 1974 brought about no great turmoil in the United States: the social order remained intact, laws remained, taxes were collected, and life quite naturally went forward: "the earth was not feverous and did not shake."[46]

There is one other consideration in the calculation of the consequences: that the social/political order is so corrupt, so wicked, that its complete destruction and reversion of man to his state of nature does not represent a negative change. One might infer that the view of the conspirators of the Hitler assassination plot was so; the defeat of Germany as a result of the death of the leader would have been a better condition than the political order that existed.

CHAPTER VII

REASON OF STATE: THE ULTIMATE RATIONALE FOR DISOBEDIENCE

Linking the threat and disobedience is that the consequences of disobedience need to be viewed always in terms of the level of threat to the state. There is a spectrum from ultimate destruction of the state (did Judge Irving Kaufman, who sentenced the Rosenbergs to death worry that the Soviets would USE the bomb?) to major inconvenience, and even security classifications reflect this spectrum: loss of a TOP SECRET document can result in exceptionally grave damage; SECRET loss can result in grave damage, while CONFIDENTIAL results in damage.

That the state itself can be preserved by extraordinary means, indeed means that are extra-constitutional, is a western concept that has adherents among most political philosophers. Plato and Aristotle both argued that the state, the social order, must exist to enable men to live in harmony. So strong is the idea of the necessity of the state that Socrates took the hemlock rather than be exiled, because for him there was no life outside the state. Likewise, Machiavelli held that the sovereign is allowed to use immoral methods to achieve the goals of the state; it is acceptable, for without the state there is no morality. This idea resonates strongly in Hobbes, and Locke devoted a section to "Prerogative" in his treatise, balancing the right of

a people to determine their own form of government with the prerogative: "The power to act according to discretion, for the public good, without the prescription of law, and sometimes even against it."[47] Even Thomas Aquinas was prepared to allow that "necessity is not subject to law."[48] David Hume wrote that "all politicians will allow, and most philosophers, that reasons of state may, in particular emergencies, dispense with the rules of justice and invalidate andy treaty or alliance, where strict observance of it would be beneficial, in a considerable degree, to either of the contracting parties. But nothing less than the most extreme necessity, it is confessed, can justify individuals in a breach of promise or an invasion of the properties of others."[49] We have therefore reached the point of the clash between moral norms for individual life and those requirements of the survival of the organization which are occasioned by the weapons an enemy is prepared to employ. We are rocked to our foundations by this controversy because the United States, like the churches, is an organization in society which rests on moral belief. The use of immoral means requires deep reflection and consideration, in addition to a perilous threat.

While considerable alignment exists on the acknowledgement of reason of state, precious little exists on the timing of its application. Should there be nearly universal agreement of its application, such as Lincoln's suspension of Habeas Corpus or the calling up of the Illinois militia without Congressional consent,

the effect of the disobedience is not catastrophic. Locke wrote: "the people therefore finding reason to be satisfied with these princes whenever they acted without or contrary to the letter of the law, acquiesced in what they did, and without the least complaint, let them [enlarge] their prerogative as they pleased, judging rightly that they did nothing herein to the prejudice of their laws, since they acted conformable to the Foundation and end of all laws, the public good."[50]

In other cases, universal agreement may be very difficult, and acquiescence to the actions of the prince may not be forthcoming. The intelligence profession is particularly vulnerable to criticism in the utilization of the idea of reason of state: there is the self-perception - not always shared by the citizenry in general - of being locked in battle with an enemy that will go to any length, an enemy that is not "hampered" by constitutional restrictions. There is also the element of the additional knowledge available to the intelligence profession that is not known to those from whom acquiescence must be gained: much of what is done is by secret means on the basis of secret information, for secret ends. It is only after the fact, when the full scale of the operation is known, when the public good (hopefully) has been served, and when the perception of danger is reduced (indeed, it may never have been raised in the popular view) that acquiescence may even be sought.

The Church and Pike committees answered the objection to the use of intelligence agencies outside the Constitution by bringing them under constitutional oversight rather than leaving them to executive prerogative: by the addition of laws to ensure oversight in advance of operations they have provided the acquiescence of the people as a matter of statute.

An illustrative example of the use of reason of state for intelligence purposes in conditions other than war or grave national peril is the problem of the wiretap. Authorization for wiretapping until 1978 had been based on a memorandum written in 1940 when President Roosevelt, "...in a secret memorandum to Attorney General Robert H, Jackson, authorized the FBI to 'secure information by listening devises' that would detect 'conversation or other communications of persons suspected to subversive activities against the United States, including spies.' The President, reacting to the threat of espionage at the start of WWII, said he believed that phone tapping and electronic bugging were constitutional because of the 'grave matters involving the defense of the nation' at the time."[51]

President Truman extended the practice in July 1946 by endorsing a letter from Attorney General Tom C. Clark, who wanted to tap the phones of persons suspected of subversive activity. Using this piece of presidential paper as its authority, the FBI tapped telephones and installed secret microphones for nearly a

quarter of a century. The wiretap law of 1968 tightened procedures, but still gave the president unrestricted power to 'take such measures as he deems necessary' to protect the United States. Under this provision, Presidents Johnson and Nixon ordered taps during the Vietnam war. Congressional investigators said that in 1975 the FBI had placed about 6000 wiretaps and planted some 1500 telephone bugs.[52]

The relative ease with which wiretaps were authorized throughout the period of the cold war illustrates the effect of the threat on "reason of state" judgements. Until the mid-1970s the "right of privacy" was hardly fully enunciated, much less enforced; the emergence of this notion coincides with the beginning of a widespread American rejection of the idea that the red menace is at our doorstep.

CHAPTER VIII

PAST DISOBEDIENCE

The overall relationship of threat, ethics, and obedience can be illustrated in the consideration of cases of past disobedience. Whittaker Chambers, an editor at Time magazine, had been seduced by the ideology of communism, choosing what he described as his only course for a peace-loving, globally-minded American Intellectual: " 'I had joined the Communist party in 1924. No one recruited me. I had become convinced that the society in which we live, western civilization, had reached a crisis, of which the first World War was the military expression, and that it was doomed to collapse or revert to barbarism... In the writings of Karl Marx, I thought I had found the explanation of the historic and economic causes. In the writings of Lenin I thought I had found the answer to the question what to do?' "[53] While Chambers appeared to be on the lunatic fringe, when Hitler ordered his panzer divisions into Russia in June, 1941, the Soviets became instant allies of Britain and America and the attitude of the American people became pro-Soviet almost overnight.

This was the background for espionage, for disobedience to the rules of the state, in the late 1940s and early 1950s. The Rosenberg spy ring was one of the most significant events in the

early cold war, setting the tone for espionage for decades to come. The "ring" consisted of Julius and Ethel Rosenberg, he an electrical engineer and she the sister of David Greenglass, a soldier who had worked as a machinist on the Hiroshima and Nagasaki bombs. Faithful followers of the party line, the Rosenbergs had called for US neutrality in WWII until the USSR was attacked. Along with them was David Greenglass' wife, Ruth, Morton Sobell, a former classmate of Julius, and Harry Gold, an American who worked as a courier for Klaus Fuchs delivering secrets.

When Julius and Ethel Rosenberg were tried and convicted, recommendations by the Department of Justice were for death for Julius and thirty years for Ethel and Morton Sobell. The sentencing for death for both Julius and Ethel and thirty years without chance of parole for Sobell was done by Judge Irving R. Kaufman, who said: "I consider your crime worse than murder." He linked their actions to allowing the Soviets to get the atomic bomb much earlier than otherwise and thus producing a direct impact on the United States' policy in Korea, "...undoubtedly [altering] the course of history to the disadvantage of our country."[54] Kaufman also said that "...this has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding fifty thousand and who knows how many more innocent people may pay the price of your treason."[55] Julius and Ethel were executed on June 19, 1953, she the first

woman since 1865 and both the only American traitors to be executed in peacetime. One of the telling elements of this story is the tone of Judge Kaufman's sentence: the emphasis was on national security, an item of great concern in the early 1950s. The change in texture will be apparent in the reading of the sentencing of John Walker and Jerry Whitworth three decades later.

This harsh line in punishment remained in other cases: "There can be no crime worse than that of selling our country's defense secrets to a foreign government" said Judge Samuel Conti of the case of James Harper, an electronics engineer who had used his romantic involvement with a secretary to a defense contractor for purposes of obtaining classified information. Judge Conti's court never tried Harper, but a statement issued by the judge gave Conti's feelings, saying that espionage was such an extreme crime that its punishment must also be extreme. Conti's intention to use capital punishment was appealed by both the government and the defense and represents a change in the outlook of the government toward the espionage "game."[56]

With Christopher Boyce, there remained the element of ideology, though with a difference. The ideological attraction to the foreign power was not the motivating force, and Boyce, a certifiable "all-American boy" by virtually any common standard, did not exhibit any of the classic indicators that the FBI would

have looked upon to indicate traitorous potential. The FBI, after having succeeded in a string of convictions in the 1950s, along with the reds-in-government issue of the McCarthy era, had a clear idea of counter-espionage success: spies were ideologues; infiltration of subversive organizations was a sound tactic. This heritage lingered even as the major motivation for espionage, for disobedience to the rules, changed.

By the mid-1970s, the basis for the individual conception of disobedience to the state had changed on multiple levels. The Vietnam war and the abuses of the intelligence community during that decade left the American public with the view that the government was not only fallible, but would not necessarily guarantee their rights. The view of the threat had been so reduced that the popular media characterized the enemy as ourselves and the threat of invasion by a foreign military power as the thinking of only the most hair-brained Pentagon hawks. (The closing lines of Three Days of the Condor are classic in this regard: in admonishing the central character for leaking intelligence plans to the New York Times, the government man said "...you've done more harm than you know." The reply was a terse "I hope so.") There were further erosions of respect for the "rules" through the example of President Nixon and by the nature of the rules themselves, which had proliferated to such an extent that "Catch-22" dilemmas in the intelligence organization were legend (instances of briefers not being cleared for their own

briefings is a trivial example.) In the bureaucracy, there were rules for - and against - just about everything; the enemy became the system, and beating the system became the game.

The product of such forces is found in the extreme case of John Walker and Jerry Whitworth, the former having been a successful agent of the USSR for nearly two decades. While the story of their activities is told elsewhere, the one factor worth bringing to light is that not only was there a clear change in motivation for espionage, and it is likely that none of the altruistic ideas of the transcendentalists had anything to do with Walker, but that the people, as personified by the judicial system, also recognized a change. As in the case of Judge Kaufman and Judge Conti, who reflected the feeling of their times, Judge Alexander Harvey II, the Federal District Court Judge in Baltimore, expressed different sentiment in his sentencing of John Walker: "Your motive was pure greed, and you were paid handsomely for your traitorous acts. It has been estimated that over this eighteen year period you received from the Soviet Union approximately $1 million in cash. Throughout history, most spies have been moved to betray their country for ideological reasons. You and others who participated in this scheme were traitors for pure cold cash...In reviewing the details of this offense and your background, I look in vain for some redeeming aspect of your character. When one considers the facts, one is seized with on overwhelming revulsion that a human

being could be as unprincipled as you...[an] ultimate disgrace to the uniform...you suggested that your wife turn to prostitution ...It made no difference to you that your flesh and blood would be exposing themselves to extreme risks by engaging in these traitorous activities..."[57] While Judge Harvey blamed Walker for the complete lack of moral character, he did not focus on the threat, the damage to the country, or the increased danger of war or disaster that had been the hallmark of 1950s espionage worry.

CHAPTER IX

ANSWERS TO THE WRONG QUESTIONS: THE ETHICAL GUIDELINES

Executive Order 12333 of December 4, 1981 is the legal basis for the collection of intelligence by the United States intelligence community. In this order are set the relationships of the organizations, restrictions against certain activities, oversight requirements, and overall direction and purpose. Although not spelled out per se, and leaving much definition of ethical guidelines to the individual agencies involved, fundamental is the idea that ethical conduct is equal to obedient conduct.

Reflecting the change in atmosphere that accompanied the ushering in of the decade of the 1980s, an upsurge in narcotics, terrorism, and belligerent behavior by the USSR and Iran among others, there are some interesting turns that took place as the previous executive order, 12036, a product of the Carter years, was replaced by E.O.12333, the document signed by President Reagan.

The central theme in E.O.12036 is the protection of the rights of United States persons. Following from the revelation of abuses by the intelligence community during the 1960s and 1970s, and as a product of the Congressional investigations of

the mid-1970s, such a theme is certainly understandable. The order specifies the chain of command and institutional relationships required to carry out intelligence functions, and makes reference to emergent threats to national security that were looming on the horizon at the time, namely narcotics and terrorism.

E.O. 12333 also reflects the times, with a new administration producing the executive order within the first year. Retained are the themes of protection of the rights of US persons, but the shift is toward action in the face of a re-identified threat.

References to national security, per se, in E.O.12036 are found only three times, while the Reagan administration found it necessary to put the order into the national security perspective 12 times. By contrast, references to "lawful" in the earlier document occurred 24 times as opposed to 17 times in E.O. 12333. No doubt that in the new document there is to be no mistake that intelligence should be done "properly" but the change in theme is noticeable. References to "protection of rights" of citizens, or US persons, are made roughly equally in both documents, each affording two sections (2.2 and 2.3 in the earlier executive order and 2.3 and 2.4, essentially equivalent statements, in E.O.12333) to the topic. Other distinct references to rights protection are made 11 times by the Carter order, but only three

times by the Reagan document.[58] [59]

In neither case is there any separate reference to a standard of ethics that is to be used by the intelligence community. The only intimation is that actions according to the rules are, if not ethical, at least legal, and, per Hobbes, that answers the requirement.

Taking Executive Order 12333 as its starting point, DoD instruction 5240.1-R likewise does not specify in any detail the measure to be used to determine ethical behavior, again implying that activities conducted according to the rules are ethical behavior. A specific reference to employee conduct, procedure 14, simply holds that proper employee conduct is conduct in accordance with E.O.12333 and the DoD instruction itself.[60] Supporting this contention, procedure 15 requires that questionable intelligence activities (defined as "any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive Order or Presidential Directive, including E.O. 12333, or applicable DoD policy, including this regulation") be identified and reported.[61]

The DoD instruction further specifies for Department of Defense activities the legal limits of their behavior, and, retaining much of the tone of the earlier Carter executive order, cites as its purpose "to enable DoD intelligence components to

carry out effectively their authorized functions while ensuring their activities that affect U.S. persons are carried out in a manner that protects the Constitutional rights and privacy of such persons."[62] It is interesting that while at the foundation of the Constitution are philosophies that describe the relationships of all men to their governments in general, and the state of all men and their natural rights irrespective of any legal structure, our intelligence activities are authorized to be conducted in ways that do not acknowledge the rights of persons other than United States persons. A case in point are recent decisions that govern activities involving the overseas arrest of non-United States persons by Drug Enforcement Agency personnel in which the protection of legal rules of search, seizure, and arrest are not applicable.[63]

The Central Intelligence Agency adds additional guidance to the Executive Order, in the form of the Central Intelligence Agency CREDO, outlining the expectations, standards, and behavior of CIA personnel. While obedience to the "spirit and letter of the law" is part of the belief structure, also mentioned is the concept of truth as a measure of success of the agency.[64] The very notion of a measure of success is a reflection of Pragmatism, and the reference to truth also is reminiscent of the philosophy of William James. The agency asks its members to derive their inspiration from the dictum "And Ye shall know the truth and the truth shall make you free."

Judge Webster added emphasis to the concept of truth as a fundamental tenet of the CIA ethical code. In his lecture given at the inauguration of the James R. Withrow, Jr. program in legal ethics at Cornell University, Judge Webster outlined two basic themes as the basis for agency ethics: truth and obedience to the law: "Just as important as the product that we produce is the way we conduct our activities - and it must be with fidelity to the constitution, our own laws, and our system of oversight."[65]

How close Judge Webster's ideas of truth are to those of the Pragmatists raises interesting questions. James, in Pragmatism's Conception of Truth holds that true ideas are those that we can assimilate, validate, corroborate, and verify. False ideas are those which we cannot. An idea is useful because it is true, and verifiability is as good as verification. To James, "to work" means that an idea must derange common sense and previous belief as little as possible, and it must lead to some sensible terminus or other than can be verified exactly.[66] Perhaps this idea is at the root of CIA failures of intelligence: predictions, particularly those that do derange common sense a great deal (like "the Shah will fall" or "the wall will crumble") may be too hard to verify before it is too late to take any effective action. So, if holding to a belief in James' non-deranging truth, and believing that an idea is one that has a direct practical application, CIA has in effect said that truth is what policy makers can accept...and thus what will keep the

agency in business, the ultimate source of philosophical meaning for a pragmatist.

It is very likely that one can carry James too far in the application to intelligence matters. In fact, James's idea of truth being non-deranging is directly in conflict with Judge Webster's specific ideas on the relationship of intelligence to policy makers: "Policy makers may not like the message they hear from us, and often they don't, especially if they have a different point of view."[67]

While there is an underlying theme that certainly one of the measures of ethical behavior is obedience to the law, Judge Webster notes that there is a difference between ethical and legal: covert action requires a presidential finding, processing through the National Security Council, Congressional oversight, all to "...[assure] the public through their elected representatives, that these activities are fully vetted and do not go beyond legal and ethical bounds."[68] Related, the director asks, in the Covert Action Review Group, " 'If this becomes public,' and it is likely to do just that, 'will it make sense to the American people?' - a kind of ethical test."[69] While more a projection of the results of a popularity test than an ethical one, Judge Webster makes an important point: that the ultimate determination of ethical behavior for American Intelligence does not reside in the law, it resides in the

opinion of the American people.

In summary, the guidelines on ethics in the intelligence community stress one dominant theme: obedience to the rules. The effort is put forth to answer the question "How can we best encourage obedience?" rather than the question "How can we encourage ethical behavior?" While one of the most common views of ethical behavior is "obedience to the law," certainly one that Thomas Hobbes would support, there are other lines of ethical interpretation. One definition may simply not be sufficient.

CHAPTER X

CONCLUSIONS

Although it is certainly a solution, and it represents a system of ethics that can be easily dealt with by a number of people, "ethical" is not identical with "obedient." Thus, to hold that an individual is acting unethically by following his own conscience, in contravention of the rules, is not true. Judge Webster, although acknowledging the necessity of obedience to the Constitution, offers another view, that adherence to truth is a measure of ethical behavior that is equivalent to the measure of obedience.

We have a tradition of disobedience in the United States, a nation founded after the supreme act of political disobedience. Philosophically we are an ethically diverse society, and the rules change. In 1892 Homer Adolph Plessey took a seat in a "white only" coach on a train in Louisiana. Arrested, the Plessey case went to the Supreme court, which ruled that the concept of "separate but equal" was valid as applied to facilities for black and white Americans. In 1954, in the case of Brown v. the Board of Education, the court ruled that "separate but equal" was a concept that had no place in society.

No society can accept behavior that would jeopardize the very existence of that society, and in a government of divided power there are multiple avenues to express disagreement and discontent; personal statements of civil disobedience via espionage are thus extreme and unnecessary. Nonetheless, it is worth considering that our tradition of civil disobedience is a deep one, with some of the greatest strides forward having been made as a result of ethical conduct that was not equal to obedient conduct. Finally, practically, given structural oppositions and size of bureaucracies, it is difficult to be totally obedient - and sometimes impossible. The result is that the preaching of obedience as the single ethical guideline rings hollow and may well be counterproductive.

The Nuremberg trials were conducted against obedient members of a political authority, and the rulings against the defendants, against those who did obey, morally faulted them for their obedience. While the crimes of the Nazi regime are obvious, other shadings exist, and we, as a democracy, must realize that there are those who think for themselves and may come to other, possibly disobedient, conclusions.

NOTES

1. Aristotle, "Nichomachean Ethics," in A. I. Melden, ed., Ethical Theories: A Book of Readings 2nd ed., (Englewood Cliffs, N.J.: Prentice Hall, 1967), p. 106.

2. Ibid.

3. William Ellery Channing, "On The Elevation of the Working Classes" in Charles W. Eliot, ed., Essays English and American (New York: P.F. Collier, Inc., 1938), p. 315.

4. David Hume in Charles W. Hendel, ed., An Inquiry Concerning the Principles of Morals (Indianapolis: Bobbs-Merrill Co., Inc., 1957), p. 59.

5. Plato, "The Republic" in Melden, p. 84.

6. Aristotle in Melden, p. 97.

7. Ibid., p. 89.

8. Plato in Melden, p. 67.

9. John Winthrop, "A Model of Christian Charity" in Perry Miller, ed., The American Puritans: Their Prose and Poetry (New York: Doubleday, 1956), p. 83.

10. William H. Marnell, Man-Made Morals: Four Philosophies that Shaped America (Garden City, N.Y.: Doubleday & Co., Inc., 1966), p. 17.

11. Benjamin Whichcote in Marnell, p. 17.

12. Thomas Hobbes, "Leviathan" in Melden, p.223.

13. Ibid.

14. Plato in Melden, p. 83.

15. Guy W. Stroh, American Ethical Thought (Chicago: Nelson-Hall, 1979), p. 34.

16. John Locke in Peter Laslett, ed., John Locke: Two Treatises on Government (London: Cambridge University Press, 1966), p. 286.

17. John Adams, quoted in Kenneth W. Thompson, "The Ethical Dimensions of Diplomacy" The Review of Politics, July, 1984, p. 372.

18. Baron de Montesquieu, The Spirit of the Laws (London, George Bell and Sons, 1900), p. 27.

19. Thomas Jefferson, "The Declaration of Independence" in Ralph L. Woods, ed., A Treasury of the Familiar (New York: McMillan, 1942), p. 245.

20. William James, "What Pragmatism Means" in William James, Pragmatism and Four Essays from the Meaning of Truth (New York: New American Library, 1942), p.42.

21. Channing in Eliot, p. 349.

22. Allan Bloom, The Closing of the American Mind (New York: Simon & Schuster, 1987), p. 26.

23. Thomas B. Allen and Norman Polmar, Merchants of Treason (New York: Delcorte Press, 1988), p. 107.

24. Aristotle in Melden, p. 101.

25. Hume in Hendel, p. 5.

26. Ibid., p. 91.

27. Henry David Thoreau, quoted in Joel Porte, Emerson and Thoreau: Transcendentalists in Conflict (Middletown, Conn.: Wesleyan University Press, 1965), p. 122.

28. Channing in Eliot, p. 366.

29. James Madison, "The Federalist No. 57" in Jacob E. Cooke, ed., The Federalist (Middletown, Conn.: Wesleyan University Press, 1961), p. 384.

30. Allen and Polmar, p. 175.

31. A. Cranston, quoted in Col. Barrie Masters, USA, "The Ethics of Intelligence Activities" National Security Affairs Forum 24: Spring-Summer, 1976, p.45.

32. Allen and Polmar, p. 187.

33. Vernon Walters quoted in William H. Webster, "Ethics: a Respect for Truth," Cornell International Law Journal 23: Winter, 1990, p. 49.

34. A. Hamilton "Federalist No. 8" in Cooke, p. 45.

35. James B. Motley, "Coping with the Terrorist Threat: the US Intelligence Dilemma" in Stephen J. Cimbala, ed., Intelligence and

Intelligence Policy in a Democratic Society (Dobbs Ferry, N.Y.: Transnational Publishers, Inc., 1987), p.170.

36. Allen and Polmar, p. 30.

37. Ibid., p. 308.

38. Ibid., p. 259.

39. Ibid., p. 176.

40. Channing in Eliot, p. 319.

41. Robert Lindsey, The Falcon and the Snowman (New York: Simon & Schuster, 1979), p. 75.

42. Allen and Polmar, p. 175.

43. Ibid., p. 297.

44. Jefferson in Woods, p. 245.

45. William Shakespeare, "Macbeth" Act II, scene iii, in William Adis Wright, ed., The Complete Works of William Shakespeare (New York: Doubleday, 1936), p. 1036.

46. Ibid.

47. Locke in Laslett, p. 393.

48. Carl Friederich, Constitutional Reason of State (Providence: Brown University Press, 1957), p.37.

49. Hume in Hendel, p. 36.

50. Locke in Laslett, p. 395.

51. Allen and Polmar, p. 154.

52. Ibid.

53. Ibid., p. 29.

54. Ibid., p. 42.

55. Ibid., p. 177.

56. Ibid., p. 179.

57. Ibid., p. 203.

58. Jimmy Carter, Executive Order 12036, "United States Intelligence Activities," Federal Register, 24 January 1978, p.112.

59. Ronald Reagan, Executive Order 12333, "United States Intelligence Activities," Federal Register, 4 December 1981, p. 200.

60. U.S. Dept. of Defense, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons (U) DoD Instruction 5240.1-R (Washington, Dec., 1982), p. 14-1.

61. Ibid., p. 15-1.

62. Ibid., p. 1-1.

63. "Gunboat Law," The Wall Street Journal, March 5, 1990, p. A-14.

64. The Central Intelligence Agency, The Central Intelligence Agency Credo, Washington, D.C.

65. Webster, p. 49.

66. William James, "Pragmatism's Conception of Truth" in James, p.142.

67. Webster, p. 49.

68. Ibid., p. 51.

69. Ibid.

BIBLIOGRAPHY

Allen, Thomas B. and Polmar, Norman. Merchants of Treason. New York: Delacorte Press, 1988.

Atkinson, Brooks, ed. The Complete Essays and Other Writings of Ralph Waldo Emerson. New York: Modern Library, 1940.

Bloom, Allan. The Closing of the American Mind. New York: Simon & Schuster, 1942.

Carter, Jimmy. Executive Order 12036. "United States Intelligence Activities." Federal Register, 24 January 1978, p.112.

Cooke, Jacob E. The Federalist. Middletown, Conn.: Wesleyan University Press.

Dawson, W. H. Bismarck and State Socialism: An Exposition of the Social and Economic Legislation of Germany Since 1870. New York: Howard Fertig, 1973.

Duncan, Graeme. Marx and Mill: Two Views of Social Conflict and Social Harmony. London: Cambridge University Press, 1973.

Dupre, Louis. The Philosophical Foundations of Marxism. New York: Harcourt, Brace, & World, Inc., 1966.

Eliot, Charles W. ed. Essays, English and American. New York: P. F. Collier & Son, 1938.

Friederich, Carl. Constitutional Reason of State. Providence:Brown University Press, 1957.

"Gunboat Law." The Wall Street Journal, 5 March 1990, p. A-14.

Hendel, Charles W., ed. An Inquiry Concerning the Principles of Morals: David Hume. Indianapolis: The Bobbs-Merrill Co., Inc., 1957

Hunt, R. N. Carew. The Theory and Practice of Marxism. Baltimore: Penguin Books, 1950.

James, Henry, ed. The Letters of William James. Boston: Atlantic Monthly Press, 1920.

James, William. Pragmatism and Four Essays from the Meaning of Truth. New York: New American Library, 1942.

Jowett, B., ed. The Works of Plato. New York: Tudor Publishing Co., 1936.

Laidler, Harry W. A History of Socialist Thought. New York: Thomas Y. Crowell Co., 1927.

Laslett, Peter, ed. John Locke: Two Treatises of Government. London: Cambridge University Press, 1960.

Marnell, William H. Man-Made Morals: Four Philosophies that Shaped America. Garden City, N.Y.: Doubleday & Co., Inc., 1966.

Marx, Karl. Capital: A Critique of Political Economy. New York: International Publishers, 1967.

Marx, Karl and Engles, Frederich. Manifesto of the Communist Party. Chicago: Encyclopedia Brittanica, Inc., 1952.

Melden, A. I., ed. Ethical Theories: A Book of Readings 2nd. ed. Englewood Cliffs, N. J.: Prentice Hall, Inc., 1967.

Melden, A. I., ed. Human Rights. Belmont, Ca.: Wadsworth Publishing Co., 1970

Miller, Perry, ed. The American Transcendentalists: Their Prose and Poetry. New York: Doubleday, 1957.

Miller, Perry, ed. The American Puritans: Their Prose and Poetry. New York: Doubleday, 1956.

Morlan, George. America's Heritage From John Stuart Mill. New York: Columbia University Press, 1936.

Porte, Joel. Emerson and Thoreau: Transcendentalists in Conflict. Middletown, Conn.: Weslyan University Press, 1965.

Raphael, D. D. Hobbes: Morals and Politics. London: George Allen & Unwin, Ltd., 1977.

Reagan, Ronald. Executive Order 12333. "United States Intelligence Activities." Federal Register, 4 December 1981, p. 200.

Stroh, Guy W. American Ethical Thought. Chicago: Nelson-Hall, 1979.

Thompson, Kenneth W. "The Ethical Dimensions of Diplomacy." The Review of Politics, July, 1984, pp. 367-387.

Tucker, Robert C. Philosophy and Myth in Karl Marx. London: Cambridge University Press, 1961.

Woods, Ralph L. A Treasury of the Familiar. New York: McMillan, 1942, pp. 245-246.

Wright, William Adis. The Complete Works of William Shakespeare. New York: Doubleday, 1936.